

LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

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July 28, 2020

Captain Kent Wegener
Los Angeles County Sheriff's Department
Homicide Bureau
One Cupania Circle
Monterey Park, California 91755

Re: Officer Involved Shooting of Timothy Neal
J.S.I.D. File #19-0321
L.A.S.D. File #019-04183-1013-056

Dear Captain Wegener:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 26, 2019, non-fatal shooting of Timothy Neal by Los Angeles County Sheriff's Deputies Ian Walker and Connor Hoffman. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

By

SHANNON PRESBY
Head Deputy District Attorney
Justice System Integrity Division

c: Deputy Ian Walker, #[redacted]
Deputy Connor Hoffman, #[redacted]

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MEMORANDUM

TO: CAPTAIN KENT WEGENER
Los Angeles County Sheriff's Department
Homicide Bureau
One Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Timothy Neal
J.S.I.D. File #19-0321
L.A.S.D. File #019-04183-1013-056

DATE: July 28, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 26, 2019, non-fatal shooting of Timothy Neal by Los Angeles County Sheriff's Department (LASD) Deputies Ian Walker and Connor Hoffman. We have determined that Deputies Walker and Hoffman acted lawfully in self-defense and in defense of others.

The District Attorney's Command Center was notified of the shooting on July 26, 2019, at 6:07 p.m. The District Attorney Response Team responded to the location and was given a briefing and walk-through of the scene by LASD Lieutenant Robert Westphal.

The following analysis is based on investigative reports, audio-recorded interviews of witnesses, radio transmissions, body worn video, crime scene diagrams and sketches, and photographs submitted to this office by LASD Homicide Bureau Detectives Teri Bernstein and Kasey Woodruff. The preliminary hearing testimony and the voluntary statements of Deputies Walker and Hoffman were also considered in this analysis.

FACTUAL ANALYSIS

On July 25, 2019, at approximately 6:07 p.m., [redacted] called 9-1-1 and reported that her [redacted] Timothy Neal, was "psychotic" and trying to kill her at her home in the City of Malibu. LASD dispatch broadcasted a call for service to her residence, informing deputies that Neal was off his medication and acting "extremely violent." LASD Deputies [redacted], Connor Hoffman, Ian Walker, and [redacted] responded to the location, as did Sergeant Travis Kelley and additional LASD personnel. When Kelley arrived at the location, he spoke to [redacted] who informed him that Neal had been acting strange over the past week and had become violent. According to [redacted], Neal was taking multiple prescription medications and smoking large

amounts of marijuana. [redacted] called 9-1-1 after Neal threatened to kill her and threw a 20-pound dumbbell at her, striking her in the lower back and knocking her to the ground.[1]

When LASD personnel arrived, Neal locked himself in his bedroom, which was a second-floor suite located above the garage of the residence.





Figures 1 & 2 – Neal lived in a second-floor room that had an interior hallway and entryway, bathroom, kitchen and an approximately 18' by 21' living area.

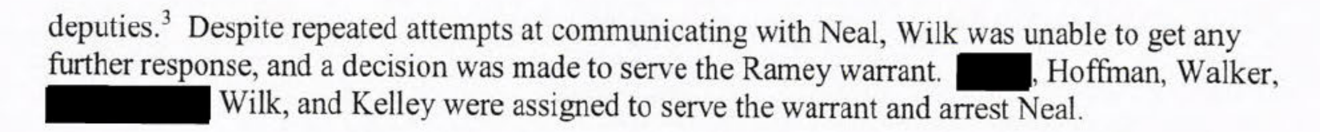
Kelley entered the residence and attempted to speak to Neal through his locked bedroom door. Neal refused to exit the room and claimed that his [redacted] was trying to kill him. Neal told Kelley, "This whole bloodbath is going to be on your hands!" Kelley posted deputies at Neal's bedroom door, exited the residence, and called for an LASD Mental Evaluation Team (MET) to respond to the location. A Crisis Negotiation Team (CNT) and a canine unit from the Special Enforcement Bureau (SEB) also responded to the scene.[2]

Over the next six hours, LASD personnel remained in front of [redacted] residence and utilized a public address system to communicate with Neal. Deputies attempted to persuade Neal to exit the residence and speak with them. Neal responded by throwing various items, such as bottles, books, cans, a lamp, and a fire extinguisher out his second-story window toward the deputies and their patrol vehicles. Neal refused to communicate with deputies or exit his room. Investigators obtained a Ramey warrant for Neal's arrest; however, [redacted] was not desirous of prosecution and did not want Neal arrested. At approximately 1:04 a.m., LASD personnel and [redacted] left the location, and Neal remained inside the residence.

The following morning, [redacted] called the LASD Lost Hills Station and requested that Neal be removed from the location so she could return home. Kelley, [redacted] Hoffman, Walker, and [redacted] returned to the residence, joined by MET Deputy Stephen Wilk. Walker and Wilk entered the residence, and Wilk attempted to speak with Neal through his locked bedroom door. Neal failed to respond to Wilk and would not come out of his room as requested. Wilk slid an emergency protective order (EPO) under Neal's door, and Neal responded by threatening the

[1] [redacted] was 70 years old at the time of the incident.

[2] METs are co-responder teams staffed with an LASD deputy and a Department of Mental Health clinician that assist patrol deputies with situations involving persons with mental health issues. SEB is responsible for handling high-risk tactical operations involving barricaded suspects, hostage situations, and high-risk warrant services.


deputies.[3] Despite repeated attempts at communicating with Neal, Wilk was unable to get any further response, and a decision was made to serve the Ramey warrant. [redacted], Hoffman, Walker, [redacted] Wilk, and Kelley were assigned to serve the warrant and arrest Neal.

All deputies, except Wilk, were wearing distinctive LASD uniforms or clothing.[4] The deputies lined up outside Neal's bedroom door. Wilk knocked on Neal's door and attempted to speak to Neal. After Neal failed to respond, Wilk began hitting the door with a sledgehammer in an attempt to breach the doorway.[5] The door to Neal's room was difficult to break down and multiple deputies took turns hitting it with the sledgehammer and prying it with a pick. At one point, a panel in the lower-right portion of the door was knocked out and deputies observed Neal standing in the northwest corner of the room. As the deputies tried to gain entry to the room, Neal threw several objects toward them, which hit the door and floor inside the room. Once the door was breached, deputies quickly walked single file through a narrow hallway. An overturned bookcase was lying across the hallway floor and made entry into the room more difficult.

Once through the hallway, [redacted] entered the room and moved to the right, followed by Hoffman who went to the left. Furniture placed near the entryway to the room restricted the deputies' ability to move around and created a small buffer between the deputies and Neal, who was standing approximately 25 feet away in the opposite corner of the room. Neal was holding a champagne bottle in one hand and two large kitchen knives in the other. [redacted] deployed his Taser and Neal growled and screamed loudly. The Taser appeared to have no other effect on Neal.[6] Walker entered the room and stood between [redacted] and Hoffman as Neal threw the champagne bottle, striking Walker in the shin. Walker drew his service weapon and pointed it at Neal.

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[3] According to Wilk, Neal stated, "Oh you mother fucker, now I'm gonna gouge your eyes out with knives!" and "You'll plead with me to kill you because you'll be in such pain!" Walker recalled Neal stating that he was going to kill them and send them to Hell.

[4] Wilk was wearing a polo shirt and had his LASD badge on a lanyard around his neck. Kelley was wearing a body worn video (BWV) camera, and the incident was captured on video.

[5] No announcement was made informing Neal that his door would be breached if he failed to exit the room.

[6] The Taser requires both darts be attached to the target to be effective. It is unclear if either of [redacted] Taser darts struck Neal. One of [redacted] darts was recovered attached to a pillow and the other dart was not recovered.

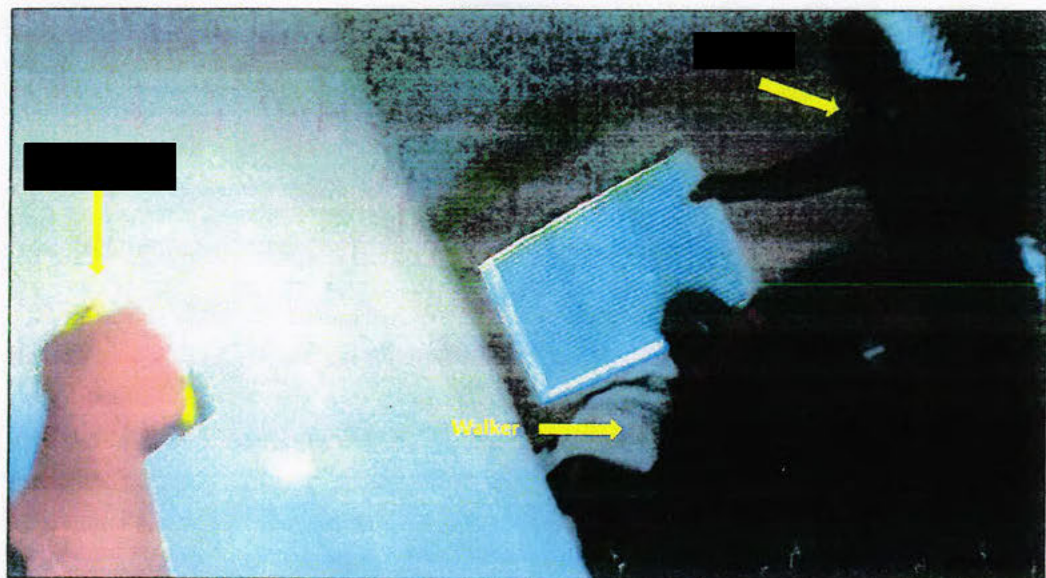


Figure 3 – Kelley's BWV depicts [redacted] *pointing his Taser toward Neal (off picture) while Walker draws his service weapon.* [redacted] *holds her Taser out as she walks through the hallway. Hoffman is located to Walker's left (off picture).*

Hoffman dropped his baton, drew his service weapon, and stepped into the bathroom. [redacted] ordered Neal to "Drop the knives!" [redacted] entered the room behind Walker, and Kelley was to the right and slightly behind [redacted]

Neal held one knife in each hand and screamed loudly. Neal ran and took multiple steps in the direction of the deputies as he manuevered around a table sitting against the west wall. Neal then ran south toward the kitchen. While Neal did not run directly at the deputies, his movements decreased the distance between himself and the deputies.

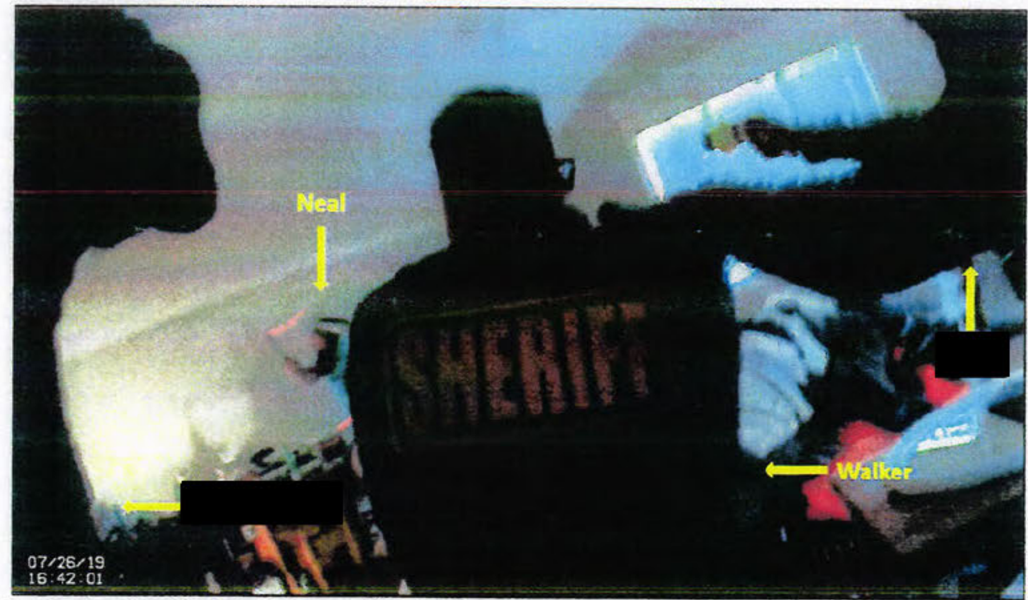


Figure 4 – Neal ran toward the kitchen with a knife in each hand. Hoffman (not pictured) stood in a bathroom located to Walker and [redacted] *left.*

[redacted] deployed her Taser at Neal and both darts missed. When Neal was approximately ten feet away from Hoffman, Walker and Hoffman each discharged one round from their service weapons at Neal almost simultaneously. One round struck Neal in the upper back area near his left shoulder blade, and the other round likely impacted a screen door frame that was resting against the west wall and the drywall of the west wall.[7] Neal fell to the floor in the kitchen doorway.

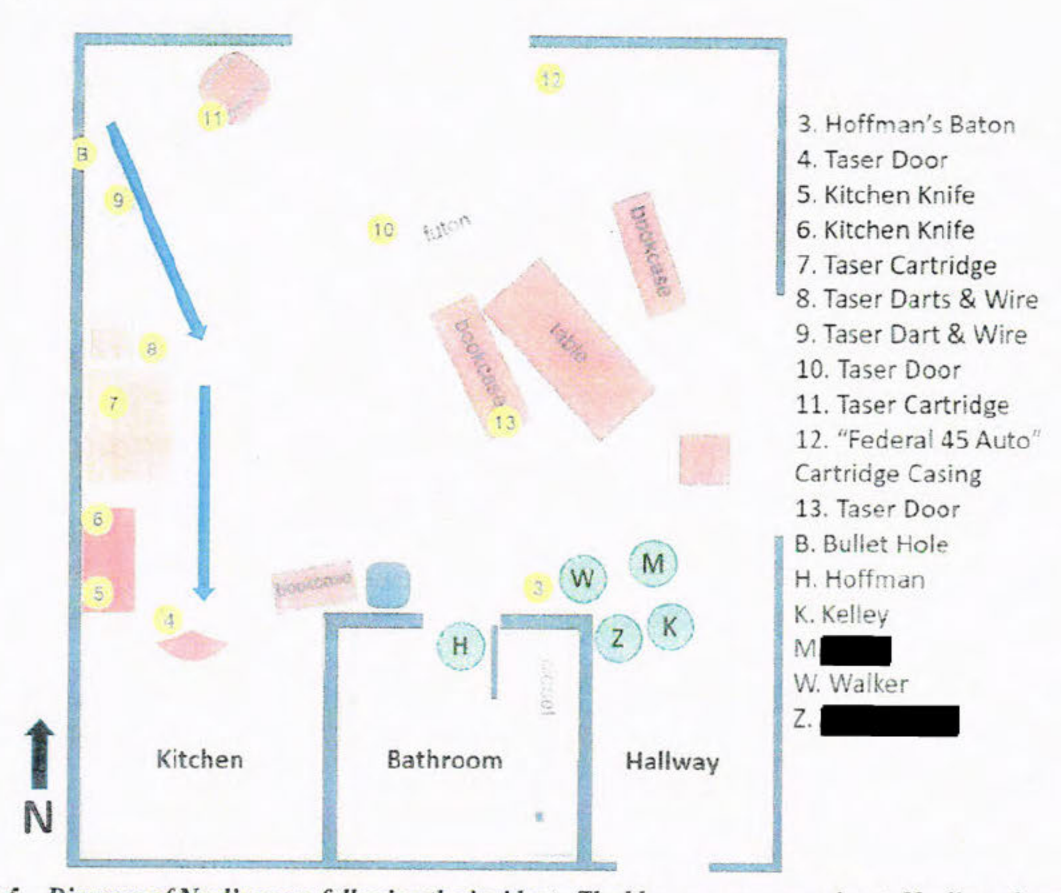


Figure 5 – Diagram of Neal's room following the incident. The blue arrows approximate Neal's path as he ran. The green circles approximate the deputies position at the time shots were fired. The bed shown in the northwest corner of the room was located toward the center of the room at the time of the incident. The bed was moved to allow easier access to medical personel.

[7] The round that struck Neal was not removed from his body, and no bullet or bullet fragments were recovered from the scene. Investigators were unable to positively determine which round struck Neal.

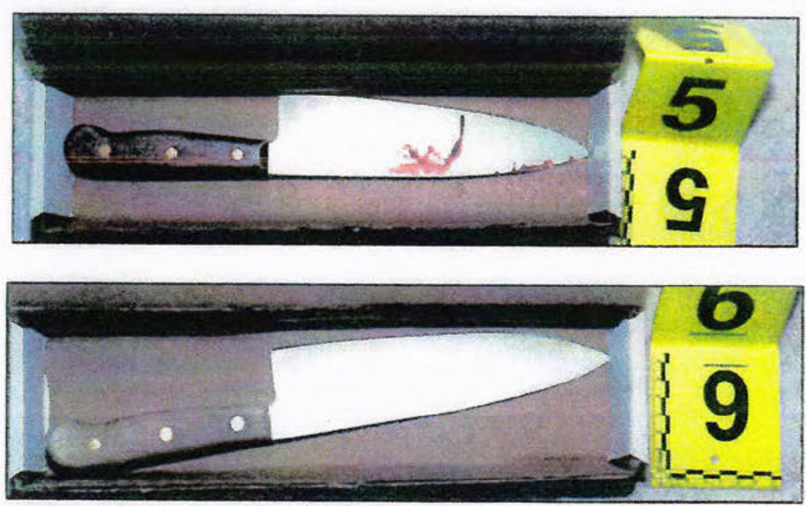


Figures 6 – Neal turned his shoulder as he ran, and one round struck him in the left side of his upper back.

Neal was handcuffed without further incident. Deputies rendered medical aid on Neal. The Los Angeles County Fire Department transported Neal to Zuma Beach, and he was airlifted to UCLA Ronald Reagan Hospital where he was treated for his injuries.[8]

Incident Location

Neal's room was disheveled and had overturned furniture, books, clothing, shoes, bottles, video games, and broken glass strewn across the floor. Immediately following the incident, deputies moved furniture and items within the room to allow access to medical personnel. Investigators recovered two large kitchen knives that were lying atop a dresser located near the kitchen.[9] One of the knives had what appeared to be blood on the blade.



Figures 7 & 8 – Two large kitchen knives were recovered from the scene.

[8] Neal suffered permanent paralysis to the lower extremities as a result of the gunshot wound.
[9] Deputies [redacted] and Walker placed the knives out of Neal's reach and on the dresser following the shooting.

One cartridge casing stamped "Federal 45 Auto" was recovered from the scene. This casing matched those found in Walker's Sig Sauer, model P220, .45 Auto caliber semiautomatic service weapon. No cartridge casing from Hoffman's Smith and Wesson, model M&P9, 9mm Luger caliber semiautomatic service weapon was recovered. Investigators observed one apparent bullet impact in a window screen frame and wall in the northwest corner of the room. No bullet or bullet fragments were recovered from the wall or room.

One Taser dart was recovered from a pillow on a bed located near the west wall. Two additional Taser darts were recovered in close proximity to one another. One dart was embedded in a stack of books sitting against the west wall, and the second dart was embedded in the west wall.

Statement of Deputy Connor Hoffman

LASD investigators interviewed Hoffman the day after the incident. Hoffman responded to the residence on the day of the shooting and the previous evening. Before entering Neal's room, a plan was devised, and Hoffman was assigned to the arrest team and told to have his baton ready. When Hoffman entered the room, he saw Neal holding two knives, so he dropped his baton on the floor and drew his service weapon. Hoffman stated that Neal was approximately twelve feet away at this time, and he feared that Neal would throw the knives at him because Neal had thrown things at them earlier. Hoffman stated that both [redacted] and [redacted] deployed their Tasers, but he was unsure if any darts struck Neal because they appeared to have no effect. Hoffman explained what happened next:

> [Neal] started moving toward us; I think he might have been next to a bookcase or a bed or something that was on the ground. He kind of moved around something and started moving toward my direction, and I think it was Deputy Walker who was standing on my right, and when that happened, I fired one round. I kind of ducked into my left where there was a bathroom… the suspect started falling over onto the ground, into the kitchen area of the room… We [Neal and Hoffman] were probably ten feet away from each other [when Hoffman fired].

Hoffman stated that he was "scared" that Neal would harm him or other deputies and described Neal as running toward the kitchen, Walker, and himself when he discharged his service weapon.

Statement of Deputy Ian Walker

LASD investigators interviewed Walker the day after the incident. Walker responded to the residence on the day of the shooting and the previous evening. Based on statements from [redacted], Walker believed Neal to be paranoid schizophrenic and self-medicating with marijuana. Walker was in the residence with Wilk when the EPO was slid under Neal's door. Walker heard Neal say that he was going to "fucking kill us!" and "send us to Hell!" Prior to entering the room, Walker was designated as a "capture" deputy and did not have any weapons in his hands. When he entered the room, Neal was holding two knives and a bottle. Neal threw the bottle and struck Walker in the shin as [redacted] attempted to tase Neal. Walker explained what happened next:

> [Neal] had no reaction to the Taser. He then screamed, and he proceeded to run cattycorner around the bed towards me and Deputy Hoffman, and I was in fear that he was going to stab me, Deputy Hoffman, and possibly someone behind me if he could get through us. At which point, I unholstered my firearm, aimed it at him, and he proceeded – he was approximately five feet away – and that's when I took a shot, almost simultaneously as Deputy Hoffman took his shot… We were almost patch to patch, so I'm unsure – I'm unsure – who fired first and whose… round hit.

Statement of Deputy [redacted]

LASD investigators interviewed [redacted] on the day of the incident, and he testified at Neal's preliminary hearing on November 15, 2019. [redacted] responded to the residence on the day of the shooting and the previous evening. Prior to entering the room, he was designated a "contact" deputy and was given the responsibility of handcuffing Neal. [redacted] was the first deputy to enter the room. There was a bookshelf lying on the ground, and the room was in "disarray." [redacted] saw Neal with a champagne bottle in one hand and two knives in the other hand. [redacted] yelled, "Drop the knives!" Neal screamed and acted "irate" but did not drop the weapons. [redacted] deployed his Taser as Neal threw the champagne bottle at the deputies. [redacted] stated he was unsure if the Taser made contact with Neal but believed it did because Neal "screamed louder" after the Taser was deployed.

[redacted] stated Neal ran "kind of a 'J' towards us along the wall," and he heard another Taser being deployed. [redacted] saw Neal "running toward the kitchen… looking at us, and he's got the knives in both hands… closing that gap with where he was to where we are, then I heard two shots go off."

Statement of Deputy [redacted]

LASD investigators interviewed [redacted] on the day of the incident, and she testified at Neal's preliminary hearing. [redacted] responded to the residence on the day of the shooting and the previous evening. Prior to entering the room, [redacted], Walker, and Hoffman were assigned to "lead," and she was assigned to be on Taser. When they entered the room, Neal was standing in the far-left corner of the room and holding two knives in one hand and a bottle in the other. Neal made a "growl" sound and [redacted] deployed his Taser. Neal screamed and ran in the direction of the kitchen and deputies. [redacted] attempted to "go over the top" of Walker to get a clear view of Neal. [redacted] deployed her Taser but missed Neal. She then heard two shots. [redacted] estimated that Neal was approximately five feet away from the deputies when shots were fired.

Statement of Sergeant Travis Kelley

LASD investigators interviewed Kelley on the day of the incident, and he testified at Neal's preliminary hearing. Kelley responded to the residence on the day of the shooting and the previous evening. On the evening before the shooting, [redacted] told Kelley that Neal had threatened to kill her, assaulted her, was taking "incorrect medication," and was smoking large amounts of marijuana. Kelley attempted to speak to Neal through his locked door, and Neal

stated, "This whole bloodbath is going to be on your hands!" On the day of the incident, Neal refused to exit his room and it was decided that deputies would force entry and take Neal into custody.

When they entered the room, [redacted] was giving Neal commands, "Let me see your hands! Let me see your hands!" When [redacted] fired the Taser, Neal screamed but did not fall to the ground. Kelley explained what happened next:

> [Neal] started making his way around the bed towards the deputies, and then Deputy [redacted] fired her Taser, but it had no effect, so I think she missed him and then he actually closed the distance on Deputy Hoffman... and Deputy Walker. And I had them ready with batons, but they had thrown their batons off to the side. Two rounds were fired, and the suspect immediately went down.

Statement of Deputy Stephen Wilk

LASD investigators interviewed Wilk on the day of the incident. After Wilk arrived at the location, he entered the residence and slid the EPO under Neal's bedroom door. Neal responded by stating, "Oh you mother fucker, now I'm gonna gouge your eyes out with knives!" and "You'll plead with me to kill you because you'll be in such pain!" Wilk helped breach Neal's door and was the last deputy to enter the room. By the time he got through the hallway, Neal was already on the ground. He did not observe what happened prior to shots being fired.

Statement of Timothy Neal

On July 30, 2019, LASD investigators interviewed Neal in his hospital room. Neal waived his Miranda rights before speaking with investigators and correctly answered questions regarding his ability to distinguish between right and wrong. Neal told investigators that a lot of his memory had been "erased." Neal stated he assaulted his [redacted] because she had been poisoning him and someone did "mind control" on him. Neal recalled threatening to kill the deputies and throwing "deadly weapons" at them when they were at his house the first night. Neal stated he was not trying to hit the deputies, only trying to "piss them off" and "scare them away." On the second evening, Neal remembered holding two knives in his hands and stated, "Maybe I walked towards the deputies and tried to stab them." Neal said he dropped the knives because he was "scared shitless." Neal remembered being tased in the back, but he did not recall being shot.

On August 5, 2019, Neal was charged in case BA480028 with several felony counts, including three counts of assault upon a peace officer in violation of Penal Code section 245(c). The matter is pending trial.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if the person claiming the right of self-defense or the defense of others actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code section 197; *People v. Randle* (2005) 35 Cal.4th 987, 994 (overruled on another ground in *People v. Chun* (2009)

45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also,* CALCRIM No. 505.

In protecting himself or another, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code section 835a. An officer "may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him." *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146. A killing of a suspect by a law enforcement officer is lawful if it was: (1) committed while performing a legal duty; (2) the killing was necessary to accomplish that duty; and (3) the officer had probable cause to believe that (a) the decedent posed a threat of serious physical harm to the officer or others, or (b) that the decedent had committed a forcible and atrocious crime. CALCRIM No. 507, Penal Code section 196. A forcible and atrocious crime is one which threatens death or serious bodily harm. *Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 333.

An officer has "probable cause" in this context when he knows facts which would "persuade someone of reasonable caution that the other person is going to cause serious physical harm to another." CALCRIM No. 507. When acting under Penal Code section 196, the officer may use only so much force as a reasonable person would find necessary under the circumstances. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1147. And he may only resort to deadly force when the resistance of the person being taken into custody "appears to the officer likely to inflict great bodily injury on himself or those acting with him." *Id.* at 1146; quoting *People v. Bond* (1910) 13 Cal.App. 175, 189-190. The prosecution has the burden of proving beyond a reasonable doubt that a killing was not justified. CALCRIM Nos. 505, 507.

"Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." *People v. Collins* (1961) 189 Cal.App.2d 575, 589.

In evaluating whether a police officer's use of deadly force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight… The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

In this matter, deputies initially went to the location because Neal had assaulted and threatened to kill his elderly [redacted] According to his [redacted], Neal was suffering from schizophrenia, was self-medicating, and had been acting erratically. When deputies tried to talk to Neal, he threw objects at them and threatened violence. The following day, law enforcement returned to the residence to arrest Neal. Prior to entering Neal's room, Neal threatened to kill the deputies.

When deputies entered Neal's room, Neal was standing in the corner armed with two large kitchen knives. [redacted] unsuccessfully attempted to tase Neal. Neal ignored orders to drop the knives and screamed as he ran in the direction of the kitchen while holding the knives. As Neal ran toward the kitchen, he also decreased the distance between himself and the deputies. When Neal was approximately ten feet away from Hoffman, both Hoffman and Walker discharged their service weapons nearly simultaneously.

While Neal may have intended to run into the kitchen, his actions also placed the deputies in a potentially life-threatening situation. Neal himself stated that he "may" have tried to stab the deputies. Given Neal's assaultive and erratic behavior leading up to the incident, his prior threats to kill the deputies, and his running near Hoffman while armed with knives, it was reasonable for Hoffman and Walker to fear that Neal may attack Hoffman and the other deputies. As such, Hoffman and Walker's use of deadly force was reasonable.

CONCLUSION

We find that Deputies Hoffman and Walker acted lawfully in self-defense and in defense of others when they used deadly force against Timothy Neal. We are closing our file and will take no further action in this matter.